MALAYSIAN REPORTS

B. MAHESAN v. K.K. LIM

[S.C. (Salleh Abas L.P, Mohamed Azmi & Wan Hamzah S.C. JJ.) July 24 & November 27, 1986]

[Kuala Lumpur – Supreme Court Civil Appeal No. 59 of 1986]

Administrative Law – Social Club – Suspension of member – Decision of domestic tribunal – Ruling by committee of club – Ruling ultra vires the Rules of club – Disciplinary Committee acting beyond its jurisdiction – No requirement to exhaust domestic remedies before coming to court.

Clubs – Suspension of member – Decision of domestic tribunal – Club committee ruling.

In this case the appellant had entered a complaint against a fellow member in a Complaint Book. He was suspended by the Disciplinary Committee of the club for allegedly committing a breach of a new ruling contained in a "warning" issued by the Committee that the Complaint Book be used strictly for complaints against the quality of the club's services or operation and that any personal complaint against members should be sent directly to the club secretaries. The appellant applied for a declaration that the suspension order was null and void. The learned judge of the High Court dismissed the application. The appellant appealed.

Held, by a majority (Wan Hamzah S.C.J., dissenting): (1) the only way in which the contractual terms between the club members can be varied or altered is by amending the relevant rules or bye-laws. Consequently the learned trial judge erred in law and in fact when he held that that the "warning" was valid merely on the basis that the committee would be the best body to decide what complaints and suggestions could go into the Complaint Book and that good reasons had been given by the Committee for imposing the restriction;

(2) the disciplinary committee in this case had obviously acted beyond its jurisdiction and the purported exercise of disciplinary action by the committee based on a new ruling in the warning was *ultra vires* the rules of the club;

(3) since the disciplinary committee had acted beyond its jurisdiction and its decision was void, the appellant should not be required to exhaust his domestic remedies before coming to the court.

Cases referred to :

(1) *Chong Kok Lim & Ors.* v. *Yong Su Hian* [1979] 2 M.L.J. 11.
(2) *Burn* v. *National Amalgamated Labourers' Union* [1920] 2 Ch. 364.
(3) *John* v. *Rees* [1970] Ch. D. 345, 397.
(4) *Dawkins* v. *Antrobus* (1881) 17 Ch. D. 615.
(5) *Bonsor* v. *Musicians' Union* [1954] 1 All E.R. 822, 825.
(6) *White* v. *Kuzych* [1951] A.C. 585.
(7) *Tharmalingam* v. *Sambanthan* [1961] M.L.J. 63, 65.
(8) *Re National Union of Commercial Workers; Wong Yoon Leong & Ors.* v. *S. Balasingam & Ors.* [1974] 1 M.L.J. 172.

SUPREME COURT.

R. J. Maneksha for the appellant.
W.S.W. Davidson for the respondent.

Cur. Adv. Vult.

Mohamed Azmi S.C.J. (delivering the majority Judgment of Salleh Abas L.P. and himself): The appellant, a lawyer formerly residing in Ipoh, was suspended for seven days from membership of the Ipoh Club, for entering a complaint on April 11, 1985, against a fellow member named Zulkifli Tan and six unnamed committee members, in a Complaint Book provided under rule 44 of the club rules. The order of suspension was made in his absence on April 26, 1985, after the management committee had found him guilty of misusing the Complaint Book. Contending that he had not by such conduct committed any breach of the club rules, and feeling that he had been victimised by the committee because his complaint had also implicated the respondent who was the President of the club and other members of the committee for dereliction of duty, he filed a writ suing the respondent on his own behalf and also on behalf of all other members of the committee, in which he sought a declaration that the suspension order was null and void, and secondly for an order that all references of the suspension being expunged from the club's records and thirdly for damages and costs. The case was heard before Anuar J. who dismissed the claim on January 28, 1986, with costs. The learned judge held that the committee had not misinterpreted the club rules and that the appellant was lawfully suspended from membership for committing a breach of the new ruling contained in a 'warning' which required that the Complaint Book be strictly used only for complaints against the quality of club's services or operations and that any personal complaint against members should be sent directly to the club secretaries. The judge also held that there had been no breach of the rules of natural justice since the committee had notified appellant of the charge against him; had given him an opportunity to be heard; and had his case heard by a domestic tribunal properly constituted under the club rules although members of the tribunal "might fairly be suspected of a bias" against the appellant.

Although one week suspension against an outstation club member even of 12 years' standing may

appear as a trivial matter for the attention of the court, the principle involved is by no means trifle and unimportant, as it concerns the question of how far and to what extent the courts will interfere in the affairs of a social club. In *Chong Kok Lim & Ors* v. *Yong Su Hian*[1] the Federal Court laid down the principle upon which courts would intervene in decisions of a domestic tribunal in relation to the power of expulsion of a member. Further, the principle that no distinction should be made between suspension and expulsion in relation to the rules of natural justice laid down in *Burn* v. *National Amalgamated Labourers' Union*[2] was adopted by Megarry J. in *John* v. *Rees*[3] because "in essence, suspension is merely expulsion *pro-tanto*. Each is penal and each deprives the member concerned of the enjoyment of his rights of membership or office." Although *Burn's* case concerned a trade union we fail to see why the same principle should not in appropriate cases, apply to social clubs merely because they do not involve a man's means of livelihood. In *Dawkins* v. *Antrobus*[4] it was held that the court would not interfere against the decision of the members of a club professing to act under their rules unless it could be shown (1) that the rules were contrary to natural justice, or (2) that what had been done was contrary to the club rules, or (3) that there had been *mala fides* or malice in arriving at the decision. To appreciate the validity and *bona fide* of the appellant's complaint, we set out below its full text as contained in the Complaint Book:

"11th April, 1984, Mr. President and Members of the Honourable Committee,

I came in to the 'Long Bar' on my way back to Penang and in an endeavour to cool myself, I had the misfortune to witness a very unpleasant incident. Dr. Chan Wai Keong and his guest (a lady) were peacefully having their evening only when Encik Zulkifli Tan (3340) confronted them and abused them. This went on from 7.00 p.m. to 7.45 p.m.

What surprises me is that at the material time there were 6 (six) members of the Committee in the Long Bar who in their casual manner abdicated their duty and 'ran' off. Dr. W.K. Chan in all fairness upheld the requirements of a member of the Club and I am appalled at the behaviour of member (3340) and the attitude of the members of the Committee who were present.

I feel that there is no need for a complaint and that the Committee should take steps to suspend/expel member 3340. His behaviour was disgusting and Ipoh Club does not need such member.

Balachandran Mahesan.
(signed)
(2450)".

There was no evidence to suggest that the substance of the above complaint was baseless or a figment of the appellant's imagination so that ordinarily his conduct could not remotely be classified as 'misusing' the Complaint Book or one which could be described as unbecoming of a member of the club or injurious to the character or interest of the club. Indeed Encik Rahim Noor (DW2) a senior committee member and also a lawyer agreed in cross-examination that Zulkifli Tan was making a nuisance of himself and that in the past, fights had occurred in the club as a result of nuisance, and that the appellant's complaint was legitimate. Yet, why was the appellant charged at all for allegedly committing a breach of the club rules? What was the need of punishing a conscientious member? This is the peculiar aspect of the present appeal.

For ease of reference, the relevant provisions of the club rules are now reproduced:

Rule 23. "No Rule of the Club shall be repealed or altered and no new Rule made except by way of a resolution passed at an Annual or Extraordinary General Meeting convened under Rules 14 or 18. Such resolution shall not be carried except by a two-thirds majority of those members voting."

Rule 28(a). "The Committee shall have power to frame and pass, and when passed alter, add to or repeal Bye-Laws of the Club for the regulation of the affairs of the Club. Such Bye-Laws so made altered or added to shall be entered in a book kept for the purpose and be posted in such parts of the Club as may be the subject of such Bye-Laws for the inspection of Members and shall come into operation on such posting and be binding on all members after such posting. Such Bye-Laws may be altered or repealed by an Annual or Extraordinary General Meeting of the Club."

Rule 28(k). "The Committee shall have power to decide all questions as to the meaning and interpretation of the existing Rules and Bye-Laws of the Club and to decide any questions which may arise and which may not be covered by the Rules and Bye-Laws of the Club. All such decisions shall be final unless reversed by a General Meeting."

Rule 35(1). "If the conduct of any member shall be brought to the notice of the Committee either by a Member of Committee or by a written complaint signed by ten members of the Club, the Committee shall make such inquiry into the matter as it may consider necessary, and if it shall be of opinion that the conduct complained of or brought to its notice as aforesaid is unbecoming to a member of the club or injurious to the character, or interests of the Club, then, and in such case, the Committee may:

(a) Suspend such member . . . .

(b) Recommend such member to resign his membership, ...

(c) Expel such member from the Club . . . .

Provided always that before using any of the powers conferred on it by the above clauses (a), (b) and (c) the Committee shall allow the member an opportunity for oral or written explanation of his conduct."

Rule 35(2). "Such member shall within 21 days of the decision being communicated to him appeal in writing to the Committee against such decision and the Committee shall call an Extraordinary General Meeting of the Club in accordance with the procedure in rule 15 and if at such Extraordinary General Meeting a majority of those present and voting are against the suspension, recommendation or expulsion, as the case may be then such suspension, recommendation or expulsion shall be cancelled and the member in question shall be reinstated, suspended or otherwise dealt with as the Extraordinary General Meeting shall decide and such decision shall be final."

Rule 44. "Complaints or suggestions may be entered by members in the books provided for the purpose and will be dealt with provisionally if necessary in the first instance by the House Member in office at the time, and finally by the committee of the Club at their first meeting after entry of the complaint or suggestion."

Rule 47. "Any complaint as to the conduct of any servant of the Club shall be made in writing to the Secretaries or entered in the complaint book. In no case shall a servant of the Club be reprimanded or punished directly by a member."

To determine whether the management committee, which under the club rules was also the disciplinary committee, had acted within or without its jurisdiction, it is essential to consider the charge on the ground that if the charge was invalid, in that it did not constitute any breach of the club rules or bye-laws it must necessarily follow that the domestic trial was a nullity. The offence must be for breach of any rule or bye-law to which members of the club were contractually bound. By his conduct on April 11, 1985, the appellant was alleged to have committed a breach of a new ruling in the 'warning' issued by order of the committee on August 1, 1984, the full text of which is now reproduced:

"WARNING

1. The book is strictly meant for complaints by *members* (excluding junior members, lady associates, visiting members, sports members, day members and guests) against the quality of club's *services* or *operations* only.

2. Any complaint against the conduct of other members or club policy should be addressed to the President or Secretaries in a separate letter and sent or handed to the club office.

3. Under no circumstances should members write comments in the same book on other member's written complaints.

4. Members who misuse the complaint book following the issue of this warning shall be deemed to have breached the club rules (35 or 49 or 51) and shall be dealt with accordingly.

5. Whenever in doubt, you are advised to follow procedure outlined in paragraph 2.

By order of the Committee

1.8.84"

The validity of the 'warning' was canvassed in th High Court and repeated before this court. In our opinion, what is pertinent is the status of the 'warning' in terms of the club rules and bye-laws. From the testimony of the respondent (DW1) there can be no doubt that he was the best person to explain the background of the new ruling in the 'warning.' After all the document was drafted by him and the committee had decided to issue it in 1984 and to publish it in the news bulletin of the club. Although counsel for the respondent, both here and in the court below, had attempted to justify the validity of the 'warning' by relying on rule 28(k), there was no evidence to support the contention that it was issued by the committee pursuant to that sub-rule as a result of any ambiguity in the meaning of rule 44 or any other rules or bye-laws of the club. To all intents and purposes, the 'warning' was treated throughout by the committee as a new rule or bye-law to curb the activity of some members in using the Complaint Book for mud-slinging purposes. In the words of the respondent, "The object of the ruling is to stop members from attacking each other; to protect names of persons who are innocent (and) who are unnecessarily being slandered". In our view, the committee had no power to create new contractual terms for the club members under rule 28(k). The said sub-rule cannot be extended for that purpose in circumvention of the mandatory provisions of rules 23 and 28(a), and it certainly cannot apply where the meaning of the rules is clear and requires no interpretation, or where the subject-matter is already covered by existing rules or bye-laws. It has never been the case for the respondent that there is ambiguity in rule 44, which plainly confers a right to club members to make legitimate complaints in the Complaint Book or Books, and also imposes an obligation on the part of the committee to deal with such complaints. In addition, rule 47 makes special provision for written complaints against the conduct of any servant of the club. Such complaints can either be entered in the Complaint Book under rule 44, or made in writing to the club secretaries. Similarly complaints against fellow members which include committee members, can be made in the Complaint Book under rule 44 or

alternatively by a written complaint signed by ten members addressed to the committee under rule 35(1). The 'warning' is clearly an attempt by the committee to amend rules 44 and 35(1), or to introduce a new club rule or bye-law pertaining to complaints against club members akin to complaints against servants in rule 47. The effect of the new ruling is to prohibit individual members from using the Complaint Book against other members under rule 44, and at the same time altering rule 35(1) by allowing such complaint to be made by individual instead of ten members to the club president or secretaries instead of the committee. We are of the opinion such substantial amendments to the club rules cannot be made by means of a 'warning' under rule 28(k), and it cannot form a valid part of the club rules or bye-laws, since it was purely the creation of the committee and was not passed as a club rule by resolution at a General Meeting in accordance with rule 23, or passed as a bye-law by the committee in accordance with the requirements of rule 28(a). Although counsel for the respondent was at pains to show that certain parts of the 'warning' were displayed on and inside the pages of the Complaint Book, there was no evidence that the 'warning' had been posted in the club premises for the inspection of members and entered in a book kept for that purpose pursuant to rule 28(a). The only way the contractual terms between the club members can be varied or altered is by amending the relevant rules or bye-laws under rules 23 or 28(a). Consequently, the learned trial judge erred in law and in fact when he held that the 'warning' was valid merely on the basis that the committee would be the best body to decide what complaints and what suggestions could go into the Complaint Book and that 'good reasons' had been given by the committee for imposing the restriction. But he failed to consider the provisions of rules 23 and 28(a), rule 35(1), and rule 44 read with rule 47, before deciding whether the committee could validly impose the new ruling without amending the club rules or bye-laws. It would have been an entirely different matter if the committee had confined itself to prohibiting members from using the Complaint Book for any illegitimate purpose. However, noble its motive, the committee could not deprive the club members of their existing rights to use the Complaint Book legitimately. In our view, the disciplinary committee had obviously acted beyond its jurisdiction, and the purported exercise of disciplinary action by the committee based on a new ruling in the 'warning', *ultra vires* club rule 44 read with rules 35(1) and 47, and merits interference by the court (see *Bonsor* v. *Musicians' Union*[5]).

In view of our conclusion that the disciplinary committee had acted beyond its jurisdiction, there is no necessity for us to deal with the issue of denial of natural justice on the ground of bias or malice. The only remaining issue is the right of the appellant to come to the court without first exhausting his domestic right of appeal under rule 35(2). It is the submission of counsel for the appellant that such an appeal is an exercise in futility since the order of suspension of membership which took effect on April 29 had already been carried out fully by the time the committee decided to stay the order *vide* its letter dated May 10, 1985. Where there is an express undertaking by members of a Club or Association not to go to the court before exhausting their domestic remedies, or where the rules of the Club or Association make provision for appeal to a domestic tribunal which can be interpreted as amounting to such an undertaking, it is incumbent on aggrieved members to exhaust their domestic remedies before resorting to the court, unless the disciplinary committee or tribunal itself is guilty of acting beyond its jurisdiction by exercising disciplinary powers in a manner contrary to its rules or constitution. This distinction between a domestic tribunal acting within and acting without jurisdiction is recognised by the Privy Council in *White* v. *Kuzych*[6] and also by Thomson C.J. in *Tharmalingam* v. *Sambanthan*.[7] Without providing an answer, the Privy Council posed the following question at page 598: ". . . . is the conclusion of a judicial tribunal acting within its jurisdiction, which is arrived at in a way which amounts to a denial of natural justice, appealable, or, on the contrary, is it simply void and thus not subject to appeal at all?" There is no necessity to deal with that question in this appeal, since the disciplinary committee had acted beyond its jurisdiction and its decision was void, and as such the appellant should not be required to exhaust his domestic remedies before coming to court. In similar circumstances in *Bonsor* v. *Musicians' Union* (*ante*) Sir Raymond Evershed M.R. said at page 825:

> "It is true that the plaintiff did not take advantage of his right of appeal under the rules, but I cannot see how that affects the plaintiff's right to come to this court and say that the purported expulsion was ultra vires the rules and ineffective."

We would therefore allow this appeal with costs. The order of the court below is set aside and we order that the decision of the club committee to suspend the appellant be declared null and void, and the order of suspension and all references of the suspension be expunged from the club's records. The trial court was urged to award damages in the

region of $15,000/-, but since the appellant no longer presses for such sum now, we would assess damages nominally at $1.00 notwithstanding the fact that he had been a member of the club for 12 years, and was also serving as committee member in other social clubs in Penang. In our opinion, it is only fair and proper that costs of this proceeding both here and in the court below be borne by the respondent. The deposit should also be refunded to the appellant.

Wan Hamzah S.C.J. (dissenting): This is an appeal by the plaintiff in the Ipoh High Court Suit No. 821/1985 against the dismissal of his claim. He had been suspended by the Kelab Ipoh Committee (the defendant) from membership for a period of seven days on a charge that he had committed a breach of the Committee's ruling in that he had entered a complaint against another member and against certain Committee members in the complaint book. He brought the suit for a declaration that the decision of the Committee to suspend him is null and void on the ground of defiance of natural justice by the defendant when holding inquiry into the charge, in that K.K. Lim the defendant who had lodged the complaint against the plaintiff leading to the charge presided over the Committee meeting holding the inquiry, and in that the members of the Committee against whom the plaintiff had entered a complaint in the complaint book took part in the meeting and inquiry. The plaintiff also avers that in further breach of natural justice the defendant had denied him the opportunity to present his case orally and of the right to state his case for mitigation, and further the defendant had failed to state in the agenda of that Committee meeting that the charge against him was to be discussed.

In defence the defendant contended that the plaintiff should have exhausted the domestic remedies before coming to the court. The defendant relies on rule 35(2) of the Rules of the Club, which gives the right to a member whom the Committee has decided to suspend or expel to appeal to the Extraordinary General Meeting of the Club. In *White* v. *Kuzych*[6] the respondent, a member of the appellant trade union was found guilty by a certain committee of the union of offences committed in breach of the byelaws of the union. As a result a general business meeting of the union passed a resolution expelling the respondent from the union. Article 26 of the bye-laws provided that if a members so found guilty by a general business meeting "feels that the decision is unfair, or the penalty too severe, he may, within sixty days, file an appeal in writing with the executive of the Shipyard General Workers' Federation." The respondent had taken an oath by which he was contractually bound under the bye-laws, promising that he would not become a party to any suit at law or in equity against the union or the Federation until he had exhausted all remedies allowed to him by the bye-laws. The respondent, without first appealing to the Federation instituted the action for a declaration that he had not been validly expelled from membership of the union. He attacked the conclusion of the general business meeting on the ground that it was arrived at by methods which made it contrary to natural justice and that it was the result of bias and even intimidation. It was held by the House of Lords that the conclusion reached by the general meeting was a "decision" within the meaning of that expression in the byelaws even if it was tainted by bias or prejudice or arrived at in defiance of natural justice, and even if the voting of some members might have been affected by intimidation; accordingly, the conclusion reached by the general meeting was subject to appeal to the Federation, and that was the appeal which the respondent was bound by his contract to pursue before he could issue his writ. There is no doubt that the appellant in the present case is contractually bound to comply with rule 35(2). On the authority of *White* v. *Kuzych*, in my opinion he should have exhausted the remedy provided in that Rule before resorting to the court process.

The appellant also contends that the Committee had no authority to issue the ruling that a complaint against the conduct of a member should not be entered in the complaint book and such complaint should be sent direct to the Secretaries or to the President. He contends that such ruling was *ultra vires* rule 44, and therefore the charge of breach of such ruling was invalid. In my opinion the court is not the right forum to determine this issue. The appellant should have brought an appeal in accordance with rule 35(2) and taken up this issue for determination by the domestic forum, *i.e.* the Extraordinary General Meeting: *Re National Union of Commercial Workers; Wong Yoon Leong & Ors.* v. *S. Balasingam & Ors.*[8] In that case certain members of the National Union of Commercial Workers applied to the High Court for a declaration that the resolution made by the National Executive Council of the Union postponing the biennial delegate conference beyond September 30, 1973 was *ultra vires* rule 9 of the Rules and Constitution of the Union which provided that the biennial delegates conference of the

Union shall be convened as soon as possible after March 31 and not later than September 30 every alternate year. It was held that the dispute should first be decided by reference to arbitration in accordance with Rule 26 of the Union, which provided that every dispute between a member and the Union shall be decided by reference to arbitration.

Appeal allowed

Solicitors: *Lim Kean Siew & Co.; Azman, Davidson & Co.*

MALAYSIAN BAR & ANOR. v. GOVERNMENT OF MALAYSIA

[S.C. (Salleh Abas L.P., Mohamed Azmi & Wan Hamzah S.C.J.) July 30, 31 & November 27, 1986]

[Kuala Lumpur — Supreme Court Civil Appeal Nos. 29 and 56 of 1956]

Constitutional Law — Equal protection — Disqualification of advocates and solicitors of less than seven years' standing from being members of Bar Council, State Bar Committee or any committee of such Council or Committee — Whether provision is discriminatory, invidious and destructive of the unity of the Malaysian Bar and therefore violates the equal protection clause of the Federal Constitution — Whether classification based on reasonable and permissible criteria — Nexus between the basis of classification and the legitimate object of the Legal Profession Act as amended — Legal Profession Act, 1976, s. 46A(1)(a) — Federal Constitution, art. 8.

Legal Profession — Restriction of membership of Bar Council, State Bar Committees and Committees formed by the two bodies to lawyers of not less than seven years' standing — Whether this violates the equal protection clause of the Federal Constitution — Legal Profession Act, 1976, s. 46A(1)(a) — Federal Constitution, art. 8.

The issue which was raised in this appeal was the constitutionality of sub-section (1)(a) of section 46A of the Legal Profession Act, 1976, which restricts membership of the Bar Council, State Bar Committee and Committee of the Bar Council or Bar Committee to advocates and solicitors of not less than seven years' standing. The appellants contended that the requirement violates the equal protection clause of Article 8 of the Federal Constitution because it denies the Council and the Committee the benefit of using the talents of those lawyers with less than seven years' standing and also it denies this group of lawyers representation in the governing bodies of the legal profession. They argued that such discrimination was discriminatory, invidious and destructive of the unity of the Malaysian Bar and therefore violates the equal protection clause of Article 8(1) of the Constitution. Harun J. in the High Court held that paragraph (a) of section 46A(1) is not unconstitutional in so far as it disqualifies a lawyer with less than seven years' standing from being a member of the Bar Council and a State Bar Committee but unconstitutional as regards disqualifying him from being a member of a Committee of the Bar Council or a State Bar Committee, see [1986] 2 M.L.J. 225. Both parties were dissatisfied and there was an appeal and cross-appeal to the Supreme Court.

Held, by a majority (Salleh Abas L.P., dissenting): (1) the classification in sub-section (1)(a) of section 46A of the Legal Profession Act 1976 is based on reasonable as well as permissible criteria. There is clearly a nexus between the basis of classification and the legitimate object of the Legal Profession Act as amended and as such the classification is valid and constitutional. No fundamental rights guaranteed by the Federal Constitution have been violated by the impugned subsection and on the basis of suspect classification it has passed the intelligible differentia and nexus test. Indeed the impugned section would appear to have satisfied even the legitimate or compelling state or governmental test, required in the United States. On those grounds the appeal must be dismissed;

(2) for the same reasons the respondent's cross-appeal must be allowed as there can be no difference in classification based on experience between membership of the Bar Council, the Bar Committees and any committee formed by those two bodies.

Cases referred to:

(1) *Lindsley* v. *National Carbonic Gas Co.* (1911) 220 U.S. 61, 76-79; 55 L. Ed. 369.
(2) *Datuk Haji Harun bin Idris* v. *Public Prosecutor* [1977] 2 M.L.J. 155, 165-166.
(3) *In re Griffith* [1973] 413 U.S. 717: 37 L. Ed. 2nd 910.
(4) *Slaughter House Cases* 83 U.S. (1873) 16 Wall 36; 21 L. Ed. 394.
(5) *Yick Wo* v. *Hopkins* (1886) 118 U.S. 356; 30 L. Ed. 220
(6) *State of Bombay* v. *F.N. Balsara* A.I.R. 1951 S.C. 318, 326.
(7) *Korematsu* v. *U.S.* (1943) 320 U.S. 81, 100; 87 L. Ed. 1774.
(8) *Graham* v. *Richardson* (1981) 403 U.S. 365, 371-372, 29 L. Ed 2nd 534.
(9) *Brown* v. *Board of Education* (1954) 245 U.S. 483, 489-490.
(10) *Shapiro* v. *Thompson* (1965) 394 U.S. 618, 638.
(11) *Public Prosecutor* v. *Datuk Harun bin Haji Idris & Ors.* [1976] 2 M.L.J. 116, 117.
(12) *Merdeka University Berhad* v. *Government of Malaysia* [1981] 2 M.L.J. 356, 358.
(13) *Manilal (Manibhai) Gopalji Desai* v. *Union of India* A.I.R. 1960 Bom. 83.
(14) *Boiling* v. *Sharpe* (1954) 347 U.S. 497.
(15) *Chimento* v. *Stark* (1973) 353 F. Supp. 1211; affirmed (1973) 414 U.S. 802.

SUPREME COURT.

Raja Abdul Aziz Addruse (*Ronald T.S. Khoo, C.V. Das* and *P. Cumaraswamy* with him) for the appellant